

REMARKS

Entry of this amendment is respectfully requested on the grounds that it places the claims in better condition for an appeal and, in the case of claim 1, reflects language agreed to in a related case. Also, the rejections in the current Office action are new and the Applicants have not had an opportunity to respond to these new grounds of rejection.

Claim 8 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for use of the word “or” which is said to create vague and indefinite language as to the scope of the claim protection sought. A comma has been added after the word “query” to make it clear that each of the items enumerated in the list are modes. Claim 5, although not specifically rejected for this reason, has been similarly amended. It is respectfully submitted that in view of the aforementioned amendments, claims 5 and 8 are no longer indefinite, and the rejection under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Independent claims 2 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Weinberger, U. S. Patent No. 5,408,443. It is respectfully submitted that the apparatus of Weinberger is directed to a patient specific device. As stated in column 2, lines 19-28:

None of the prior art, however, provides a programmable medicine dispenser in which a separable data storage unit may be programmed by a physician or a pharmacist to provide specific instructions with respect to each drug to be taken and which also requires the patient to properly confirm that he has followed the instructions or which releases a drawer containing medications and provides a visual indication of the location and medication to be taken.

As stated in the Summary of the Invention, beginning at line 35:

Another object of the invention is to provide a programmable medicine-dispensing system which is appropriate for a patient who is not under immediate supervision.

Applicants have amended independent claims 2 and 7 to recite that the processor controls a “non-patient specific dispensing cabinet.” It is respectfully submitted that in view of that change, independent claims 2 and 7, and the claims dependent therefrom, are not anticipated by Weinberger.

Claim 1 has been amended as agreed to in a related application, serial number 10/010,387 entitled Method of Operating a Dispensing Cabinet. Claim 1 is believed to be patentable over the art of record.

In paragraph 12 of the Office action, independent claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinberger and McDonald, U. S. Patent No. 5,564,803. It is respectfully submitted that the Examiner has done nothing more than pick and choose those elements favorable to his position and, through the use of hindsight, combined those elements. It is respectfully submitted that there is no suggestion in the art for combining the teachings of the two references and no teaching or suggestion in the art for displaying substantive information for an identified item in a non-patient specific dispensing cabinet. For that reason, it is respectfully submitted that the Office has failed to make a prima facie case with respect to independent claims 2 and 7 and the claims dependent therefrom.

In paragraph 13 of the Office action, independent claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blechl et al., U. S. Patent No. 5,377,864 and Weinberger and Blechl. As with the previous obviousness rejection, it is respectfully submitted that the Office has done nothing more than pick through the prior art to identify elements favorable to its position and, through the use of hindsight, combined those elements to allegedly arrive at the claimed invention. However, the Office has failed to identify a motivation or suggestion in the prior art for combining the teachings of the various references. It is respectfully submitted that the prior art provides no motivation or suggestion for providing substantive information in the context of the non-patient specific dispensing cabinet. In the absence of such motivation or suggestion, it is respectfully submitted that the Office has failed to make out a prima facie case of obviousness and the rejection of independent claims 2 and 7, and

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the claims dependent therefrom, over Blechl et al., or Weinberger and Blechl should be withdrawn.

Lastly, Applicants request that the Examiner acknowledge the IDS filed with this application by initializing the PTO Form 1449 filed 12 November 2003.

Applicants have made a diligent effort to place the instant application in condition for allowance. Accordingly, a notice of allowance for claims 1-11 is respectfully requested. If the Examiner is of the opinion that the instant application is in condition for disposition other than through allowance, the Examiner is respectfully requested to contact Applicants' attorney at the telephone number listed below.

Respectfully submitted,



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